

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JIMMY A. MCCONNELL

PLAINTIFF

v.

CIVIL NO. 07-5149

**MICHAEL J. ASTRUE, Commissioner
Social Security Administration**

DEFENDANT

J U D G M E N T

Now on this 8th day of September 2008, comes on for consideration the Report and Recommendation dated August 18, 2008 (document #8), by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas, and the response thereto of defendant Michael J. Astrue, Commissioner of the Social Security Administration (document #9). Ten (10) days have passed without objections being filed by plaintiff. The Court has reviewed this case, and being well and sufficiently advised, finds and orders as follows:

Defendant's response does not object to the analysis or substance of the Report and Recommendation. Rather, defendant points out what he believes is a clerical error on the final page of the Report and Recommendation. Specifically, while the magistrate judge found in defendant's favor on every substantive issue raised by plaintiff, the Report and Recommendation ultimately concludes that, "[b]ased on the foregoing, we recommend reversing the decision of the ALJ and remanding this

case to the Commissioner for further consideration pursuant to sentence four of 42 U.S.C. § 405(g)." This recommendation is inconsistent with the findings set forth in the Report and Recommendation and, as such, the Court agrees that this sentence is a clerical error.

Accordingly, the Court adopts the findings of the Report and Recommendation, but discounts the conclusion of said report as a clerical error. Therefore, the Court hereby affirms the decision of the Administrative Law Judge; and dismisses plaintiff's complaint with prejudice.

IT IS SO ORDERED.

/S/JIMM LARRY HENDREN
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE